



State of New Hampshire

PUBLIC EMPLOYEE LABOR RELATIONS BOARD

BATH EDUCATION ASSOCIATION/
NEA-NEW HAMPSHIRE

Petitioner

v.

BATH SCHOOL DISTRICT

Respondent

CASE NO. T-0399:1

DECISION NO. 92-45

APPEARANCES

Representing Bath Education Association/NEA-NH:

John Fessenden, UniServ Director, NEA

Representing Bath School District:

Bradley F. Kidder, Esq, Counsel

Also appearing:

James Gaylord, Bath School District
Marjorie Lane, Bath Education Assoc.
Ann Fabrizio, Bath Education Assoc.
Karoline Boddington, Bath Education Assoc.

BACKGROUND

On August 23, 1991, the Bath Education Association filed a Petition for Certification for full time teachers (7), part-time teachers (1), LPN, secretary, aide (1), custodian (1) and cooks (2). By letter of September 3, 1991, the foregoing petition was amended by the Association to include the school nurse (RN). The matter was set for hearing on September 18, 1991 at the offices of counsel for the employer in Laconia, New Hampshire, with this Board's chairman acting as a hearing officer. The hearing officer's decision was rendered October 1, 1991, creating a unit of all full-time teachers, part-time teachers, LPN, secretary, aide

and the nurse (RN) position. The cooks and the custodian position were specifically excluded for lack of a community of interest. On October 21, 1991, the District filed a Motion for Rehearing which was reviewed and granted by the Board on October 31, 1991. The case was reheard by the Board on February 20, 1992, as reflected by this decision.

FINDINGS OF FACT

1. Full-time teachers, part-time teachers, the LPN, secretary, aide and Registered Nurse all interface with each other during the course of performing their job functions. They all work in the same setting, i.e., in the school buildings and for the same employer.
2. Decisions relating to hiring, firing and the imposition of discipline are all ultimately determined by the same employer, namely, the District.
3. The Registered Nurse performs some teaching functions as does the LPN who acts as an instructional aide. While the LPN had been employed to address a certain case of mainstreaming a disadvantaged student, that employment is of sufficient duration for the position to be considered a part of the proposed bargaining unit.
4. The teaching principal teaches forty (40%) percent of the time. The position was not sought to be included by the pending petition and, given the amount of teaching time, would be inappropriate for inclusion were it to have been petitioned.
5. Differences in current benefits package and the manner of calculating compensation are insufficient to warrant a finding of a lack of community of interest and to deny bargaining rights extended as a matter of policy in RSA 273-A:1 (XI).
6. There is insufficient evidence of supervisory roles performed by teachers over aides to warrant exclusion of either position under RSA 273-A:8.

ORDER

Based on the above findings, the Board finds as follows:

1. The decision of the Hearing Officer issued October 1, 1991 is AFFIRMED.
2. The bargaining unit shall consist of all full-time teachers, part-time teachers, the LPN, secretary, aide and nurse (RN) positions.

Signed this 6th day of March, 1992.


EDWARD J. HASELTINE
Chairman

By unanimous vote. Chairman Edward J. Haseltine presiding.
Members Seymour Osman and Richard E. Molan, present and voting.